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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,462	02/28/2002	Tomohiro Koyata	7217/66559	1812
530 7590 06/12/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER BAYAT, BRADLEY B	
			ART UNIT 3621	PAPER NUMBER
			MAIL DATE 06/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/085,462

Applicant(s)

KOYATA ET AL.

Examiner

Bradley B. Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,6-11,13,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-11,13,16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 15, 2007 has been entered.

### ***Status of Claims***

This communication is in response to amendment filed on May 15, 2007. Claims 1 and 11 have been amended and claims 4, 5, 14, 15, 27 and 28 canceled. Thus, claims 1, 3, 6-11, 13, 16 and 17 remain pending.

### ***Response to Amendment***

The amendment noted is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the specification does not provide restoring of digital data "when the encoded digital data is damaged (emphasis added)."

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

Applicant's arguments with respect to above-noted claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3, 6-11, 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al. (hereinafter Ginter), US 2004/0133793 A1 in view of Shimoyoshi et al. (hereinafter Shimoyoshi), US 5,548,574.**

As per the following claims, Ginter discloses:

1. Ginter discloses a digital signal processing apparatus comprising:

-transmitting means for transmitting inquiry information to an information center over a communication line, said inquiry information being generated in association with encoded digital data which have been recorded on a storage medium [0008; 0221-222];

-receiving means for receiving a result of an inquiry conducted by said information center based on said inquiry information [0226-0240];

-discriminating means for judging, based on said result of said inquiry, whether said encoded digital data recorded on said storage medium are legally purchased data [1118, 1126, 1540, 1858, 1971-1975]; and

-controlling means which, when said discriminating means judges said encoded digital data to be legally purchased data, then executes a process to offer an additional service to said customer, wherein said additional service offered to said customer [0057-0093, 0192, 0208, 0215-0222].

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Ginter does not explicitly disclose that the controlling means also includes moving said encoded data from said storage medium to another storage medium; restoring said encoded digital data onto said storage medium; and converting and replacing said encoded digital data recorded on said storage medium into encoded digital data of a different bit rate.

Shimoyoshi, however, teaches controlling means that includes moving said encoded data from said storage medium to another storage medium; restoring said encoded digital data onto said storage medium; and converting and replacing said encoded digital data recorded on said storage medium into encoded digital data of a different bit rate (see summary columns 3-4; col 8, 36-col 10, 24; col. 21-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ginter to include the mechanism of Shimoyoshi to provide a recording/reproducing apparatus which is capable of accommodating plural usages having different demand levels while reducing the economic load without jeopardizing and lowering the dependability and quality to the customer, respectively.

2. Canceled.

3. A digital signal processing apparatus according to claim 1, wherein said additional service is offered to said customer by said controlling means converting said encoded digital data recorded on said storage medium with an algorithm of a predetermined version, into digital data having undergone encoding with an algorithm of a more advanced version, before replacing the unconverted digital data with the converted digital data on said storage medium [0965, 1478,

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1511, 2017, 2280].

4. Canceled.

5. Canceled.

6. Ginter further discloses a digital signal processing apparatus according to claim 1, wherein said additional service offered to said customer comprises furnishing said customer, free of charge, with a product related to a producing party who produced said digital data purchased legally by said customer from said information center [0107-0141].

7. Ginter further discloses a digital signal processing apparatus according to claim 1, further comprising inputting means for inputting identification information for identifying said encoded digital data which are subject to said inquiry; wherein said identification information input through said inputting means is transmitted to said information center over said communication line [0193-0229].

8. Ginter further discloses a digital signal processing apparatus according to claim 7, wherein said information center comprises: receiving means for receiving said inquiry information and said identification information for identifying said encoded digital data which are subject to said inquiry transmitted from said encoded digital signal processing apparatus; retrieving means for retrieving said digital data subject to said inquiry from said information center in association

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with said identification information for identifying said encoded digital data; reference inquiry information generating means for generating reference inquiry information in association with said encoded digital data retrieved by said retrieving means; comparing means for comparing said reference inquiry information generated by said reference inquiry information generating means with said inquiry information received by said receiving means; inquiry result generating means for generating an inquiry result based on a result of the comparison by said comparing means; and transmitting means for transmitting said inquiry result generated by said inquiry result generating means [0509, 0722].

9. Ginter further discloses a digital signal processing apparatus according to claim 8, wherein said reference inquiry information generating means subjects part of said encoded digital data retrieved by said retrieving means to an encoding process executed by a software encoder, the coded data part being compared with said inquiry information by said comparing means [1350-1814].

10. Ginter further discloses a digital signal processing apparatus according to claim 1, further comprising charging means for processing charges; wherein, if said discriminating means judges that said encoded digital data recorded on said storage medium are legally purchased data, then said charging means either charges nothing or a reduced amount to said customer for said additional service offered to said customer [0222-0272].

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Claims 11, 13, 16 and 17 are directed to a method of the above-recited apparatus and are similarly rejected.

*Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*

### **Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday-Friday 8 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Bradley B. Bayat  
Primary Examiner  
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